

Ent: 337249 - Pg 1 of 14
Date: 1/14/2010 2:50 PM
Fee: \$50.00 CREDIT CARD
Filed By: MC
CALLEEN B PESHELL, Recorder
Tooele County Corporation
For: KENNECOTT BARNEYS CANYON MIN
ING CO

When Recorded Return To:

Kennecott Barneys Canyon Mining Company
c/o Kennecott Utah Copper LLC
Kelly Payne, Environmental Remediation Manager
P.O. Box 6001
Magna, UT 84044-6001

RECEIVED

JAN 25 2010

Environmental Response &
Remediation

CPS

With Copies To:

Division Director
Division of Environmental Response and Remediation
Utah Department of Environmental Quality
168 North 1950 West
P. O. Box 144840
Salt Lake City, UT 84114-4840

SCANNED

DERR 2010-002106

and

Regional Institutional Control Coordinator, EPR-SR
U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, CO 80202

Parcel Nos. 06-020-0-0012, 06-020-0-0013, 01-184-0-0003, 01-185-0-0001, 01-185-0-0003, and all, or portions of, the following patented mining claims which lie substantially within Section 24, Township 4 South, Range 5 West, Salt Lake Base and Meridian, Tooele County, Utah, in the Rush Valley Mining District: Rush Amended Mineral Survey 5251, Hope M.S. 4946, Bellevue, Copper Queen Amended No. 2, Copper Queen No. 4 and Rush Lake, Mineral Survey No. 6152, Union Consolidated Mineral Survey 4983, North Star Lot 135, Gray Hound Amended Mineral Survey 5016, Bullion No. 3 Lot 44 and Parrot Mineral Survey 4748 lying within the E1/2 of the E1/2 of Section 24, Township 4 South, Range 5 West, Salt Lake Base and Meridian.

See Exhibit A for complete property descriptions and a map depicting the Property.

ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by Kennecott Barneys Canyon Mining Company ("Owner"), the United States Environmental Protection Agency ("EPA") and the Utah

Department of Environmental Quality ("DEQ"), (collectively "Parties") pursuant to Utah Code Ann. §§ 57-25-101 et seq. ("Act") and concerns the Property described in paragraph B.2 below. The DEQ and EPA each enter into this Environmental Covenant in their capacity as an Agency as defined in the Act. The DEQ and EPA assume no affirmative obligations through the execution of this Environmental Covenant.

A. Environmental Response Project

The Property is located east of Stockton, Tooele County, Utah, and is adjacent to the Jacobs Smelter Superfund Site. The Property is more particularly described in Exhibit A. The activity and use limitations are necessary because certain ephemeral drainages and related areas of the Property contain soils impacted with elevated levels of hazardous substances, primarily lead and arsenic. The impacted soils are the result of hazardous substances migrating onto the Property from higher elevation sources during surface water runoff events. It is not feasible to remove the impacted soils from the Property because hazardous substances are anticipated to continue to migrate onto the Property from higher elevation sources during future surface water runoff events. The impacted soils are enclosed by fencing to restrict access and potential human exposure to hazardous substances. The fencing includes signage to provide notice regarding the presence of impacted soils on the Property. Additional information is available in the files for the Kennecott NE Stockton Property, CERCLA Site ID # 08-PD, Stockton, Tooele County, Utah, at the DEQ offices and in the administrative record on file with EPA in Denver, Colorado at 1595 Wynkoop Street, Denver 80202-1129. EPA and the DEQ agree that it is in the best interests of the public to have notice of the presence of elevated levels of hazardous substances in the soils on the Property and to have limited use controls in place.

B. Covenant

Now therefore, the Parties agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to the Act.
2. Property. This Environmental Covenant concerns approximately 81 acres of land located in Tooele County, Utah, known as the Kennecott NE Stockton Property, CERCLA Site #08-PD, and is more particularly described in Exhibit A attached hereto and hereby incorporated by reference herein ("Property"). The Property is depicted generally on the map attached with Exhibit A.
3. Owner. Kennecott Barney's Canyon Mining Company, a corporation organized and existing under the laws of Delaware, ("Owner") is the owner of the Property in fee simple. Consistent with Paragraph 6 of this Environmental Covenant, the obligations of the Owner are

imposed on assigns, successors in interest, including without limitation future owners of an interest in fee simple, mortgagees, lenders, easement holders, lessees, and the like ("Transferee").

4. Holder. Kennecott Utah Copper LLC, whose address is listed above, is the Holder of this Environmental Covenant.

5. Activity and Use Limitations. As part of the Environmental Response Project described above, the Owner hereby imposes and agrees to implement, administer, and maintain the following activity and use limitations. In the event the Owner conveys or transfers an interest in the Property or any portion thereof to another party, the Transferee shall assume the responsibility to implement, administer, and maintain the following activity and use limitations.

5.1 Owner shall maintain the perimeter fence, gates and signage at the Property consistent with the Administrative Settlement Agreement and Order on Consent for Removal Action, CERCLA Docket No. CERCLA-08-10040005, and the Access Control Construction and Maintenance Plan, Kennecott Stockton Northeast Property, incorporated thereto as Appendix D.

5.2 Prior to taking any action at the Property which might disturb and thus potentially cause a release of hazardous substances, Owner shall verify the presence or absence of heavy metals in soils in the areas to be disturbed. The "Trigger Level" for purposes of this Covenant is a surface (0 - 6 inches below ground surface) lead concentration greater than 500 ppm and subsurface lead concentrations greater than 800 ppm. Unless the sampling analysis indicates levels of heavy metals less than the Trigger Level, Owner and any and all Transferees agree to comply with Paragraph 5.3 herein. If the levels of heavy metals in the soils in and around the area to be disturbed are less than the Trigger Level as that term is defined herein, there are no limitations on the uses of the Property.

5.3 If heavy metals above the applicable Trigger Level are to be disturbed, Owner must appropriately protect workers and nearby receptors by controlling releases of heavy metals.

(a) Notification and Written Workplan - Prior to initiating any project on the Property which would disturb soils containing lead greater or equal to the Trigger Level, the Owner must submit and obtain written approval of a written workplan. The workplan must contain sufficient sampling and analysis to demonstrate the levels and locations of lead above the Trigger Level to be disturbed. The workplan shall be submitted to DEQ, EPA, and the local authority which grants building permits, and shall describe the nature of the project and the work practices and engineering controls to be used, the location of potential receptors and the steps Owner will take to cutoff the potential pathways and to prevent exposing workers, the public and

the environment. EPA and DEQ will coordinate to determine the appropriate level of government oversight and will notify the Owner which agency will be conducting oversight of the project. In the event any action or occurrence on or relating to the Property constitutes an emergency situation or which may present an immediate threat to public health or welfare or the environment, and prevents Owner from complying with the requirements of this paragraph, Owner shall immediately notify EPA and DEQ. The notification shall include details of the emergency situation and any immediate response actions needed.

(b) Existing Regulations – Any activity at the Property which disturbs the heavy metals above the Trigger Level should be conducted, at a minimum, in compliance with the then existing local, State and Federal regulations. The materials disturbed should be properly handled, transported and disposed of, in accordance with good work practices and then existing laws and regulations.

(c) Experienced Workforce - Owner shall utilize experienced and qualified workers.

(d) Oversight Costs - Owner shall timely pay DEQ and/or EPA for oversight and review in accordance with DEQ's and/or EPA's applicable fee schedule.

6. Running with the Land. This Environmental Covenant shall be binding upon the Owner and any Transferee during that person's period of control, occupation, or ownership interest, and shall run with the land, pursuant to the Act and subject to amendment or termination as set forth herein.

7. Compliance Enforcement. This Environmental Covenant may be enforced pursuant to the Act. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein by any party shall not bar subsequent enforcement by such party, and shall not be deemed a waiver of the party's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict the DEQ or EPA from exercising any authority under applicable law.

8. Rights of Access. Owner hereby grants to EPA and the DEQ, including their agents, contractors, and employees, the right of access to the Property for inspection, implementation, or enforcement of this Environmental Covenant.

9. Compliance Reporting. Upon request, Owner or any Transferee or Holder shall submit written documentation to EPA and the DEQ verifying that the activity and use limitations remain in place and are being followed.

10. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED _____, 200_, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE _____ COUNTY RECORDER ON _____, 200_, IN [DOCUMENT _____, or BOOK _____, PAGE _____,]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS: *[Insert verbatim the activity and use limitations exactly as they appear in Paragraph 5 herein.]*

Owner shall notify the DEQ and EPA within *twenty (20)* days after each conveyance of its interest in any portion of the Property. Owner's notice shall include the name, address, and telephone number of the Transferee, a copy of the deed, or other documentation evidencing the conveyance, and an unsurveyed plat that shows the boundaries of the property being transferred.

11. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

- A. that the Owner is the sole owner of the Property;
- B. that the Owner holds fee simple title to the Property;
- C. that the Owner has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- D. that the Owner has identified all other persons that own an interest in or hold an encumbrance on the Property, and notified such persons of the Owner's intention to enter into this Environmental Covenant; and
- E. that this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document, or instrument to which Owner is a party or by which Owner may be bound or affected.

12. Amendment or Termination. This Environmental Covenant may be amended or terminated only by a written instrument duly executed by all of the following: the Owner or Transferee, EPA and DEQ, pursuant to Utah Code Ann. § 57-25-110 and other applicable law. Termination is appropriate if hazardous substances exceeding the Trigger Levels are removed pursuant to a work plan approved by EPA and/or DEQ prior to initiation of such work. The term, "Amendment," as used in this Environmental Covenant, shall mean any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation

remaining. The term, "Termination," as used in this Environmental Covenant, shall mean the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant. Within thirty (30) days of signature by all requisite parties on any amendment or termination of this Environmental Covenant, the Owner shall file such instrument for recording with the Tooele County Recorder's Office, and shall provide a file- and date-stamped copy of the recorded instrument to the DEQ and EPA.

13. Effective Date, Severability and Governing Law. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a document of record for the Property with the County Recorder. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Utah.

14. Recordation and Distribution of Environmental Covenant. Within *thirty (30)* days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording in the same manner as a deed to the Property, with the Tooele County Recorder's Office. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: the DEQ; EPA; and the County of Tooele.

15. Notice. Unless otherwise notified in writing by or on behalf of the current owner or the DEQ or EPA, any document or communication required by this Environmental Covenant shall be submitted to:

The State of Utah:

Division Director
Division of Environmental Response and Remediation
Utah Department of Environmental Quality
168 North 1950 West
P.O. Box 144840
Salt Lake City, Utah 84114-4840

EPA:

Regional Institutional Control Coordinator, EPR-SR
U.S. EPA
1595 Wynkoop Street
Denver, CO 80202-1129

Owner:

Kennecott Barneys Canyon Mining Company
c/o Kennecott Utah Copper LLC
Environmental Remediation Manager
P.O. Box 6001
Magna, UT 84044-6001

Holder:

Kennecott Utah Copper LLC
Environmental Remediation Manager
P.O. Box 6001
Magna, UT 84044-6001

16. Governmental Immunity. In executing this covenant, the DEQ and EPA do not waive governmental immunity afforded by law. The Owner, for itself and its successors, assigns, and Transferees, hereby fully and irrevocably releases and covenants not to sue the State of Utah, its agencies, successors, departments, agents, and employees ("State") from any and all claims, damages, or causes of action arising from, or on account of the activities carried out pursuant to this Environmental Covenant except for an action to amend or terminate the Environmental Covenant pursuant to sections 57-25-109 and 57-25-110 of the Utah Code Ann. or for a claim against the State arising directly or indirectly from or out of actions of employees of the State that would result in (i) liability to the State of Utah under Section 63G-7-301 of the Governmental Immunity Act of Utah, Utah Code Ann. Section 63G-7-101 et seq. or (ii) individual liability for actions not covered by the Governmental Immunity Act as indicated in Sections 63G-7-202 and -902 of the Governmental Immunity Act, as determined in a court of law.

The undersigned representative of Owner represents and certifies that they are authorized to execute this Environmental Covenant.

[Signature Blocks on Subsequent Pages]

IT IS SO AGREED:

Kennecott Barneys Canyon Mining Company

[Signature]

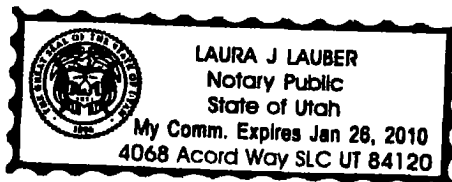
6/16/09
Date

State of Utah)
: ss.
County of Salt Lake)

Before me, a notary public, in and for said county and state, personally appeared ANDREW HARRING, a duly authorized representative of Kennecott Barneys Canyon Mining Company, who acknowledged to me that he did execute the foregoing instrument on behalf of Kennecott Barneys Canyon Mining Company.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal
this 16th day of JUNE, 2009

Laura J Lauber
Notary Public



LT Wells

Date _____

State of Utah)

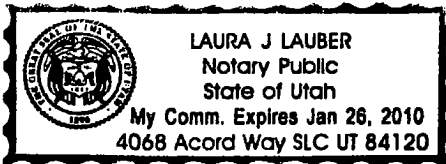
: SS.

County of Salt Lake)

Before me, a notary public, in and for said county and state, personally appeared CLAYTON WALKER, a duly authorized representative of Kennecott Utah Copper LLC, who acknowledged to me that he did execute the foregoing instrument on behalf of Kennecott Utah Copper LLC.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal
this 16th day of JUNE, 2009

Laura J. Lamber
Notary Public



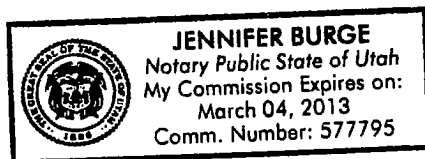
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY

The Utah Department of Environmental Quality authorized representative identified below hereby approves the foregoing Environmental Covenant pursuant to Utah Code Ann. Sections 57-25-102(2) and 57-25-104(1)(e).

By: Brad T Johnson 8/12/2009
Name: Brad T Johnson Date
Title: Director, Division of Environmental Response and Remediation
Utah Department of Environmental Quality

STATE OF UTAH)
: ss.
County of Salt Lake)

Before me, a notary public, in and for said county and state, personally appeared Brad T Johnson, an authorized representative of the Utah Department of Environmental Quality, who acknowledged to me that he did execute the foregoing instrument this 12 day of August, 2009.



Jennifer Burge
Notary Public
My Commission expires: 3-4-13

UNITED STATE ENVIRONMENTAL PROTECTION AGENCY

Michael T. Risner
Michael T. Risner, Director
Legal Enforcement Program

7/8/09
Date

Kelcey Land
Kelcey Land, Acting Director
Technical Enforcement Program

7/8/09
Date

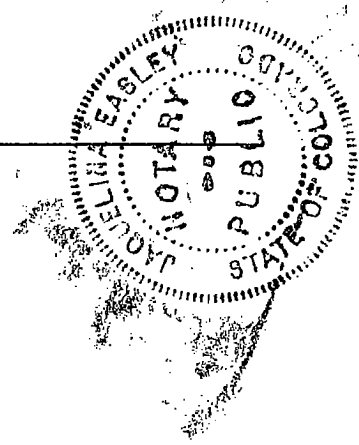
State of Colorado)
) ss:
County of Denver)

Before me, a notary public, in and for said county and state, personally appeared Michael T. Risner and Kelcey Land, Director and Acting Director respectively of Legal Enforcement and Technical Enforcement Programs at the United States Environmental Protection Agency, who acknowledged to me that they did execute the foregoing instrument.





IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal
this 8th day of July, 2009.

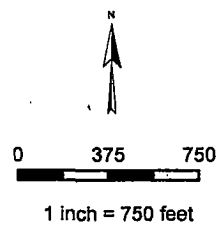
Jacqueline Easley
Notary Public

9/30/2011





-  NE ENVIRONMENTAL COVENANT AREA
-  APPROXIMATE FENCE ALIGNMENT
-  GATE
-  SOIL W/ LEAD GREATER THAN 3000 mg/kg



RioTinto	EXHIBIT A ENVIRONMENTAL COVENANT NE PARCEL AOC	
	ENVIRONMENTAL RESTORATION GROUP	
	Drawing Number: Exhibit A_NE AOC	
	Karnecott Utah Copper	Date: May 2008 Drawn By: JI Project Mgr: KP Rev:

EXHIBIT A

CERCLA Site #08-PD

**LEGAL DESCRIPTIONS OF PROPERTY SUBJECT TO ENVIRONMENTAL
COVENANT**

All of the following described real property situated in **Section 24, Township 4 South, Range 5 West, Salt Lake Base & Meridian**

A. Those portions of Section 24 described as follows:

1st: Beginning at the South Quarter Corner of Section 24; thence North 1320 feet, thence East 999.90 feet, thence South 1320 feet, thence West 999.90 feet to the point of beginning.

Tax ID No. **Private**

2nd: Beginning at the Southwest Corner of the Northwest Quarter of the Southeast Quarter of Section 24; thence North 2043.70 feet, thence South 62°16' East 1129.67 feet, thence South 1518 feet, thence West 999.90 feet to the point of beginning.

Tax ID No. **Private**

3rd: Beginning at the Southeast Corner of the Southwest Quarter of the Southeast Quarter of Section 24; thence West 320.10 feet, thence North 2838 feet, thence South 62°16' East 127.03 feet, thence North 29°29' East 333.40 feet, thence South 63°43' East 48.60 feet, more or less, to "40" line, thence South 2986.60 feet, more or less, to the point of beginning.

Tax ID No. **Private**

4th: Beginning at a point 206.55 feet East of the Southwest Corner of the Northwest Quarter of the Northeast Quarter of Section 24; thence North 34°49' East 271.34 feet, thence South 65°46' East 97.1 feet, thence North 35°02' East 605.0 feet, thence South 62°06' East 589.3 feet, thence South 1316.6 feet, thence North 63°43' West 48.6 feet, thence South 29°29' West 333.4 feet, thence North 62°16' West 127.03 feet, thence North 1122.0 feet, thence West 793.35 feet to the point of beginning.

Tax ID No. **Private**

5th: Beginning at a point 723.7 feet North of the center of Section 24, thence North 299.3 feet, thence North 34°49' East 361.76 feet, thence East 793.35 feet, to the Northeast Corner of the Stockton Town Boundary, thence South 1122.0 feet, thence North 62°16' West 1129.67 feet to the point of beginning.

Tax ID No. **Private**

B. All, or portions of, those patented mining claims described below which lie substantially within Section 24, Township 4 South, Range 5 West, Salt Lake Base and Meridian, Tooele County, Utah, in the Rush Valley Mining District. Such property is also described as follows:

1st Beginning at the Northwest Corner of the Copper Queen No. 4 mining claim, MS 6152, thence approximately Northwest to the Southwest Corner of the Copper Queen Amended No. 2 mining claim, MS 6152, thence approximately North to the Northwest Corner of the Copper Queen Amended No. 2 mining claim, thence approximately Northwest to the Southwest Corner of the Bellevue mining claim, MS 6152, thence approximately North to the Northwest Corner of the Bellevue mining claim, thence approximately Southeast along the Northeast boundary line of the Bellevue mining claim to its intersection with the West boundary line of the Hope mining claim, MS 4946, thence approximately North to the Northwest Corner of the Hope mining claim, thence approximately North to the Northwest Corner of the Rush Amended mining claim, MS 5251, thence approximately 1,820 feet at a bearing of South 52° East to the intersection of the West boundary line of Section 19, Township 4 South, Range 4 West, SLB&M, and the North boundary line of the Union Consolidated mining claim, MS 4983 (which point is approximately 4,005 feet north of the Southwest corner of Section 19), thence approximately 676 feet South along the West boundary line of Section 19 to the intersection of the West boundary line of Section 19 and the South boundary line of the North Star mining claim, MS 135 (which point is approximately 3,329 feet north of the Southwest corner of Section 19), thence approximately 1,035 feet at a bearing of North 64° West to the Southwest Corner of the Union Consolidated mining claim, MS 4983, thence approximately 1,118 feet at a bearing of South 2° West to the Northwest Corner of the Copper Queen No. 4 mining claim, which is the point of beginning.

2nd Beginning at the Northwest Corner of the Copper Queen No. 4 mining claim, MS 6152, thence 400 feet approximately Southeast along the Northeast boundary line of the Copper Queen No. 4 mining claim, thence 679 feet due South to a point on the South boundary line of the Copper Queen No. 4 mining claim, thence 547 feet approximately Northwest to the Southwest corner of the Copper Queen No. 4 mining claim, thence approximately North to the Northwest Corner of the Copper Queen No. 4 mining claim, which is the point of beginning.

The above descriptions encompass all or a portion of each of the following mining claims:

<u>Claim Name</u>	<u>Mineral Survey No.</u>
North Star	135
Hope	4946
Union Consolidated	4983
Rush Amended	5251
Bellevue, Copper Queen Amended No. 2, and Copper Queen No. 4,	6152